BUREAU OF CONSUMER PROTECTION ConsumerFacts

Protecting Wisconsin Consumers for 75 Years

# Equal credit opportunity rights

People use credit to pay for education or a house, a remodeling job or a car, or to finance a loan to keep their business operating.

The Federal Trade Commission (FTC), the nation's consumer protection agency, enforces the Equal Credit Opportunity Act (ECOA), which prohibits credit discrimination on the basis of race, color, religion, national origin, sex, marital status, age or because you get public assistance. Creditors may ask you for most of this information in certain situations, but they may not use it when deciding whether to give you credit or when setting the terms of your credit.

Not everyone who applies for credit gets it or gets the same terms: factors like income, expenses, debts, and credit history are among the considerations lenders use to determine your creditworthiness.

The law provides protections when you deal with any organizations or people who regularly extend credit, including banks, small loan and finance companies, retail and department stores, credit card companies, and credit unions.

Everyone who participates in the decision to grant credit or in setting the terms of that credit, including real estate brokers who arrange financing, must comply with the ECOA.

Here is a brief summary of the basic provisions of ECOA.

## When you apply for credit, creditors may not…

- Discourage you from applying or reject your application because of your race, color, religion, national origin, sex, marital status, age, or because you receive public assistance.

- Consider your race, sex, or national origin, although you may be asked to disclose this information if you want to. It helps federal agencies enforce anti-discrimination laws. A creditor may consider your immigration status and whether you have the right to stay in the country long enough to repay the debt.

- Impose different terms or conditions, like a higher interest rate or higher feed, on a loan based on your race, color, religion, national origin, sex, marital status, age, or because you receive public assistance.

- Ask if you are widowed or divorced. A creditor may use only the terms: Married, unmarried, or separated.

- Ask about your marital status if you are applying for a separate, unsecured account. A creditor may ask you to provide this information if you live in a "community property" state: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. A creditor in any state may ask for this information if you apply for a joint account or one secured by property.

- Ask for information about your spouse, except:
  - If your spouse is applying with you.
  - If your spouse will be allowed to use the account.
  - If you are relying on your spouse's income or on alimony or child support income from a former spouse.
  - If you live in a community property state.

- Ask about your plans for having or raising children. They can ask questions about expenses related to your dependents.

- Ask if you get alimony, child support, or separate maintenance payments, unless they tell you first that you do not have to provide this information if you are not relying on these payments to get credit. A creditor may ask if you have to pay alimony, child support, or separate maintenance payments.

## When deciding to grant you credit or when setting the terms of credit, creditors may not…

- Consider your race, color, religion, national origin, sex, marital status or whether you get public assistance.

- Consider your age, unless:
  - You are too young to sign contracts, generally under 18.
  - You are at least 62, and the creditor will favor you because of your age.
  - It is used to determine the meaning of other factors important to creditworthiness. For example, a creditor could use your age to determine if your income might drop because you are about to retire.
  - It is used in a valid credit scoring system that favors applicants 62 or older. A credit scoring system assigns points to answers you give on credit applications. For example, your length of employment might be scored differently depending on your age.

- Consider whether you have a telephone account in your name. A creditor may consider whether you have a phone.

- Consider the racial composition of the neighborhood where you want to buy, refinance or improve a house with money you are borrowing.

## When evaluating your income, creditors may not…

- Refuse to consider reliable public assistance income the same way as other income.

- Discount income because of your sex or marital status. For example, a creditor cannot count a man's salary at 100 percent and a woman's at 75 percent. A creditor may not assume a woman of childbearing age will stop working to raise children.

- Discount or refuse to consider income because it comes from part-time employment, Social Security, pensions, or annuities.

- Refuse to consider reliable alimony, child support, or separate maintenance payments. A creditor may ask you for proof that you receive this income consistently.

## You also have the right to…

- Have credit in your birth name (Mary Smith), your first and your spouse's last name (Mary Jones), or your first name and a combined last name (Mary Smith Jones).

- Get credit without a consigner, if you meet the creditor's standards.

- Have a cosigner other than your spouse, if one is necessary.

- Keep your own accounts after you change your name, marital status, reach a certain age, or retire, unless the creditor has evidence that you are not willing or able to pay.

- Know whether your application was accepted or rejected within 30 days of filing a complete application.

- Know why your application was rejected. The creditor must tell you the specific reason for the rejection or that you are entitled to learn the reason if you ask within 60 days. An acceptable reason might be: "your income was too low" or "you have not been employed long enough." An unacceptable reason might be "you did not meet our minimum standards." That information is not specific enough.

- Learn the specific reason you were offered less favorable terms than you applied for, but only if you reject these terms. For example, if the lender offers you a smaller loan or a higher interest rate, and you do not accept the offer, you have the right to know why those terms were offered.

- Find out why your account was closed or why the terms of the account were made less favorable, unless the account was inactive or you failed to make payments as agreed.

## A special note to women

A good credit history – a record of your bill payments – often is necessary to get credit. This can hurt many married, separated, divorced, and widowed women. Typically, there are two reasons women do not have credit histories in their own names: either they lost their credit histories when they married and changed their names, or creditors reported accounts shared by married couples in the husband's name only.

If you are married, separated, divorced, or widowed, contact your local credit reporting agencies to make sure all relevant bill payment information is in a file under your own name. Your credit report includes information on where you live, how you pay your bills, and whether you have been sued, arrested or filed for bankruptcy. National credit reporting agencies sell the information in your report to creditors, insurers, employers, and other businesses that, in turn, use it to evaluate your applications for credit, insurance, employment, or renting a home.

The Fair Credit Reporting Act (FCRA) requires each of the three nationwide credit reporting agencies – Equifax, Experian, and TransUnion – to give you a free copy of your credit report, at your request, once every 12 months.

To order your report, visit:

**annualcreditreport.com**
or call:
**Toll-free: (877) 322-8228**

## If you suspect a creditor has discriminated against you, take action

- Complain to the creditor. Sometimes you can persuade the creditor to reconsider your application.
- Consider suing the creditor in federal district court. If you win, you can recover your actual damages and be awarded punitive damages if the court finds that the creditor's conduct was willful. You also may recover reasonable lawyers' fees and court costs. Or you might consider finding others with the same claim, and getting together to file a class action suit. An attorney can advise you on how to proceed.
- Report violations to the appropriate government agency. If you have been denied credit, the creditor must give you the name and address of the agency to contact.

A number of state and federal agencies share enforcement responsibilities for the ECOA. Visit the Consumer Financial Protection Bureau (consumer finance.gov) or HelpWithMyBank.gov, a site maintained by the Office of the Comptroller of the Currency, for answers to frequently-asked questions on topics like bank accounts, deposit insurance, credit cards, consumer loans, insurance, mortgages, identity theft, and safe deposit boxes, and for other information about federal agencies that have responsibility for financial institutions.

For information about state financial institutions, check with the Wisconsin Department of Financial Institutions at:

**Toll-free: (800) 452-3328**
**www.wdfi.org**

## For more information

For more information or to file a complaint, visit our website or contact the Bureau of Consumer Protection.

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**Madison WI 53708-8911**

**E-MAIL:**
**DATCPHotline@wi.gov**

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(Information taken from the FTC fact sheet "Your Equal Credit Opportunity Rights", January 2013)

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